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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/332,069	06/14/1999	STEPHEN MARYKA	1960.125	2471

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EXAMINER

NAJJAR, SALEH

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 12/19/2001

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Please find below and/or attached an Office communication concerning this application or proceeding.

for

Office Action Summary

Application No.

09/332,069

Applicant(s)

MARYKA ET AL.

Examiner

Saleh Najjar

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) 1-20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-20 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. This action is responsive to the application filed on June 14, 1999. Claims 1-20 are pending. Claims 1-20 represent method and apparatus for incremental download from a server to a client.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 6, 9, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Britt, Jr. et al., U.S. Patent No. 6,023,268.

Britt teaches the invention as claimed including a system and method for reducing latency while downloading data over a network (see abstract).

As to claims 6, and 11, Britt teaches a method in the initializing a device comprising the steps of:

determining whether an archive was being committed to persistent storage when said device was powered off, and instructing said persistent storage to clear the portion of said archive committed to persistent storage when said step of determining establishes that an archive was being committed when said device was powered off, wherein said archive is committed to a repository of said persistent storage (see figs. 1-15; col. 12, Britt teaches that if the device loses power during downloading of software, the downloading is re-established at the point of failure).

Claim 9 does not teach or define any new limitations above claim 6 and therefore is rejected for similar reasons.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Britt.

Britt teaches the invention substantially as claimed including a system and method for reducing latency while downloading data over a network (see abstract).

As to claim 10, Britt teaches the method of claim 6 above.

Britt fails to teach the claimed limitation wherein said archive is a Java archive of JavaBean objects.

Official Notice is taken that the concept and advantages of implementing software using JavaBean objects is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Britt by implementing JavaBean software objects to allow developers to create reusable software components that can then be assembled together using visual application builder tools.

6. Claims 1-5, and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godse, U.S. Patent No. 6,202,09.

Godse teaches the invention substantially as claimed including a method and system for initializing a computer from power up (see abstract).

As to claims 1, and 5, Godse teaches a method for transferring at least a portion of a group of objects to a first computer from a second computer, said first computer having a central processing unit, random access memory and a persistent storage means, said first and second computers connected by a communication medium (see figs. 1-3), said method comprising the steps of:

interrogating said first computer for configuration information, determining required objects for transfer based on an operation that considers, at least in part, said

configuration information and said group of objects (see figs. 1-6; col. 7-8, Godse teaches that a discovery process interrogates the first computer for configuration setup information and determines what files are needed based on the step of a discovery process);

packaging said objects into an archive, and transferring said archive to said random memory, committing said archive to said random access memory, and committing a list of said required objects to said persistent storage, and activating said required objects in said random access memory (see figs. 7-9; col. 9-10, Godse teaches that the files determined to be needed for initialization of the computer are downloaded to the memory of the computer and initialized);

Godse fails to teach the claimed steps of "committing an archive-commit flag on/off, and setting a list-commit flag on/off".

Godse does teach that a status file script is downloaded to the computer to monitor the stages of software download and execution and verifying that the software download was not interrupted during transfer and execution (see col. 6-10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Godse by implementing the functionality of the status file using flags since the same functionality is achieved.

As to claims 2-4, Godse teaches the method of claim 1 above.

Godse fails to teach the claimed limitation wherein said archive is a Java archive of JavaBean objects.

Official Notice is taken that the concept and advantages of implementing software using JavaBean objects is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Godse by implementing JavaBean software objects to allow developers to create reusable software components that can then be assembled together using visual application builder tools.

Claims 7-8 do not teach or define any new limitations above claims 1-5 and

therefore are rejected for similar reasons.

7. Claims 12-20 are allowed.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Updating server related data at a client by Bainbridge et al., U.S. Patent No. 6,161,145.
- Method and apparatuses for downloading auxiliary data to a client from a network during idle client periods by Perlman, U.S. Patent No. 6,237,039.
- Recoverable software installation process by Beelitz et al., U.S. Patent No. 6,247,126.
- Remote software configuration and distribution by Glowny, U.S. Patent No. 5,805,897.
- Sever to client data download by Casagrande et al., U.S. Patent No. 6,049,892.
- Managing interruptions while downloading data over a network by Britt, Jr. et al., U.S. Patent No. 6,230,319.
- Managing power interruptions during communication between client and server by Goldman et al., U.S. Patent No. 5,974,461.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saleh Najjar whose telephone number is (703) 308-7613. The examiner can normally be reached on Monday-Friday from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, AN MENG AI, can be reached on (703) 305-9678. The fax phone number for this Group is (703) 308-9052.

Any inquiry of a general nature or relating to the status of this application or

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proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600. The fax number for the After-Final correspondence/amendment is (703) 746-7238. The fax number for official correspondence/amendment is (703) 746-7239. The fax number for Non-official draft correspondence/amendment is (703) 746-7240.

A handwritten signature in black ink, appearing to read "Saleh Najjar". The signature is written in a cursive, flowing style.

Saleh Najjar
Examiner Art Unit 2154